

Important Notice to All Licensed Firms that Operate, Bottle, Distribute or Sell Bottled Water and Vended Water in California:

This is to notify you of new labeling requirements that you must meet, beginning January 2002, in accordance with AB 2723. AB2723 amended the California bottled water law in 2000. Affected licenses are: In-state and Out-of-state Bottlers, Bottled Water Distributors, Water Haulers, Water vending machine operators and Retail Water Facilities. The Department of Health Services' Food and Drug Branch (FDB) offers an optional benefit regarding the required annual analysis of source water (If you are a Private Water Source Operator or an Out-of-State Bottler, please see Attachment 1).

New Labeling Requirements

AB 2723 (Wesson) amended four Sections of the Health and safety Code (H&SC 111080, 111170, 111175, 111180) and added three new Sections (111172, 111192, 111193). A copy of these sections is attached as Attachment 2. Among them, the Department of Health Services' Food and Drug Branch (FDB) would like to bring your attention to two: 111172 (for bottlers and distributors regarding the labeling of non-returnable or one-way packages) and 111192 (labeling for bottlers and water haulers that distribute water directly to consumers; water vending machine operators; and retail water facilities). The two Sections state:

H&SC Section 111172 (Affected License Types: In-state and Out-of-state Bottlers; Bottled water Distributors): This Section requires that, beginning January 1, 2002, the labeling on bottled water sold in non-returnable (one-way) packages must include: 1) a telephone number of the bottler or brand owner; or 2) the bottler's or brand owner's mailing address. Bottlers or brand owners may also include other forms of contact, including, but not limited to, the bottler's or brand owner's E-mail address or website.

H&SC 111192 (Affected License Types: In-State and Out-of-state Bottlers; Bottled water Distributors; Water Haulers; Water Vending Machine Operators; Retail Water Facilities): This Section requires that, beginning January 1, 2002, bottlers and water haulers who distribute water directly to consumers provide a sentence on each billing statement that includes one of the following: 1) a telephone number of the bottler or brand owner; or 2) the bottler's or brand owner's mailing address. The Section also requires that such bottlers and water haulers provide to new customers, and to existing customers once per year thereafter, the following statement: "As a food product, bottled water is subject to rules and regulations promulgated by the federal Food and Drug Administration (FDA). For further information, please contact (insert the name of the bottler or brand owner) at (insert the name of the bottler's or brand owner's telephone number or mailing address)."

Water vending machines and retail water facilities must provide the same information (i.e., a telephone number or address, and the statement "As a food product, vended water is subject to rules . . .") on the machines and in a take-home format, respectively.

Bottlers and water haulers may also include other forms of contact, including, but not limited to, their E-mail address or website.

Accordingly, FDB requests that, beginning January 2002,:

- (1) In-state and Out-of-state Bottlers, Bottled water distributors or Brand Owners, who sell or distribute non-returnable (one-way) packages, print their telephone number or mailing address on product labels.
- (2) In-State and Out-of-state Bottlers; Bottled water Distributors; Brand Owners or Water Haulers, who distribute water directly to consumers, provide the following on each billing statement: 1) their telephone number or mailing address, and 2) to new customers, and to existing customers once per year thereafter, the following statement: “As a food product, bottled water is subject to rules and regulations promulgated by the federal Food and Drug Administration (FDA). For further information, please contact (insert the name of the bottler and brand owner) at (insert the name of the bottler’s or brand owner’s telephone number or mailing address).”
- (3) Water Vending Machine Operators and Retail Water Facilities provide the same information as in (2) (i.e., a telephone number or address, and the statement “As a food product, vended water is subject to rules . . .”) on each machine and in a take-home format, respectively.
- (4) Other forms of contact, including, but not limited to, their E-mail address or website may optionally be placed, together with the information of (1), (2) or (3) on the product label or billing statement.

If you have questions or should require additional information, please contact Dr. Chang-Rae Lee, Food and Drug Scientist, at (916) 327-8041.

Limited Waiver to Reduce the Frequency of Testing of Certain Substances in Source Water:

The Title 21, Code of Federal Regulations, Section 129.35(a)(4)(ii), which California adopts, states that firms which do not use a public drinking water system as the source of their water may reduce the frequency of their testing of that source (e.g., private water sources), as well as the number of chemical contaminants for which they test the source water, if they can document that such reduction is consistent with a State-issued waiver under EPA regulations.

Accordingly, beginning January 1, 2002, FDB will issue waivers to private water source operators and out-of-state bottlers regarding the required annual chemical analysis of source water. They will be on a firm-by-firm and a contaminant-by-contaminant basis. The waivers will be effective for three years from the date of issuance, and may be renewed. [Note: FDB expects that waivers will be given mostly for pesticides/PCB's. It may not issue waivers for volatile organic chemicals (VOC's) because VOC's are ubiquitous in California and other states, and their analysis are relatively inexpensive.] An applicant requesting a waiver must do the following:

- (1) Submit a formal request including: firm name, name of contact person, address, location of the source, type of the source, phone number, License number, list of contaminant(s) for the waiver, and
- (2) Statement whether the contaminant was used, manufactured, stored, transported, or disposed of in the area; the extent of search for the information (including references, names and phone numbers of the agencies contacted, etc.); copies of documents to support the statement (if available); whether a waiver for the contaminant(s) was issued to a nearby public drinking water well (if yes, provide a copy of the waiver, identify the location of the well and its distance to your source), and
- (3) A copy of the most recent analysis of the contaminant(s) (If it was already submitted to FDB, identify the dates of sampling/analysis, and date of submission).
- (4) Send the request and information to:

Water Licensing Desk:
California Dept of Health Services
Food and Drug Branch
601 North 7th Street (MS-357)
P.O. Box 942732
Sacramento, CA 94234-7320

[Note: Please be advised that **the waiver will apply only to source water testing**. Product waters (finished product) must be tested for all substances in accordance with 21CFR 129.80(g).]

AB 2723

Author: Wesson; Chaptered on Sept. 19 2000; Chapter 533-Statutes of 2000

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 111080 of the Health and Safety Code is amended to read:

111080. The quality and labeling standards requirements for bottled water and vended water, including mineral water, shall include all standards prescribed by Section 165.110 of Title 21 of the Code of Federal Regulations. In addition, bottled water and vended water, when bottled, shall comply with the following quality standards and any additional quality standards adopted by regulation that the department determines are reasonably necessary to protect the public health:

(a) Bottled water and vended water shall meet all maximum contaminant levels set for public drinking water that the department determines are necessary or appropriate so that bottled water may present no adverse effect on public health. New or revised allowable levels or monitoring provisions adopted for bottled water by the United States Food and Drug Administration under the federal Food, Drug and Cosmetic Act that are more stringent than the state requirements for bottled water are incorporated into this chapter and are effective on the date established by the federal provisions unless otherwise established by regulations of the department.

(b) Bottled and vended water shall not exceed 10 parts per billion of total trihalomethanes or five parts per billion of lead unless the department establishes a lower level by regulation.

(c) Bottled and vended water shall contain no chemicals in concentrations that the United States Food and Drug Administration or the state department has determined may have an adverse effect on public health.

SEC. 2. Section 111170 of the Health and Safety Code is amended to read:

111170. (a) Labeling and advertising of bottled water and vended water shall conform with this section, Chapter 4 (commencing with Section 110290), and applicable portions of Part 101 of Title 21 of the Code of Federal Regulations.

(b) Each container of bottled water sold in this state, each water-vending machine, and each container provided by retail water facilities located in this state shall be clearly labeled in an easily readable format. Retail water facilities that do not provide labeled containers shall post, in a location readily visible to consumers, a sign conveying required label information.

(c) Water-vending machines, retail water facilities, and private water sources that sell water at retail shall display in a position clearly visible to customers the following information:

(1) The name and address of the operator.

(2) The fact that the water is obtained from an approved public water supply or licensed private water source.

(3) A statement describing the treatment process used.

(4) If no treatment process is utilized, a statement to that effect.

(5) A telephone number that may be called for further information, service, or complaints.

(d) Bottled water may be labeled "drinking water," notwithstanding the source or characteristics of the water, only if it is processed pursuant to the Food and Drug Administration Good Manufacturing Practices contained in Section 165.110 and Parts 110 and 129 of Title 21 of the Code of Federal Regulations, Sections 12235 to 12285, inclusive, of Title 17 of the California Code of Regulations, and any other requirements established by the department pursuant to Sections 111145, 111150, and 111155. Any vended water and any water from a retail water facility may be labeled "drinking water," notwithstanding the source or characteristics of the water, only if it is processed pursuant to Article 10 (commencing with

Section 114200) of Chapter 4 of Part 7 and any other requirements established by the department pursuant to Sections 111145, 111150, and 111155.

SEC. 3. Section 111172 is added to the Health and Safety Code, to read:

111172. (a) The labeling on bottled water sold in nonreturnable (one-way) packages in this state shall include one of the following:

- (1) A telephone number of the bottler or brand owner.
- (2) The bottler's or brand owner's mailing address.

(b) Bottlers or brand owners may also include other forms of contact, including, but not limited to, the bottler's or brand owner's E-mail address or website.

(c) This section shall become operative on January 1, 2002.

SEC. 4. Section 111175 of the Health and Safety Code is amended to read:

111175. (a) In addition to the requirements of Section 111170, if a bottler, distributor, water hauler, retail water facility operator, or vending machine operator provides information in the labeling or advertising stating or implying that this water is of a specific water type (for example, "spring water") or treated in a specific manner (for example, "purified"), the type or treatment shall be clearly labeled in an easily readable format. In order to be so labeled, the source or treatment shall conform to the definitions established in Section 165.110 of Title 21 of the Code of Federal Regulations, or, if not defined in that section, with the following criteria:

(1) "Mineralized water" means bottled or vended water that meets the requirements of "mineral water" except that the water contains added minerals.

(2) "Natural water" means bottled or vended spring, artesian well, or well water that is unmodified by mineral addition or deletion, except "natural water" may be filtered and shall be sanitized with ozone or an equivalent disinfection process and treated to reduce the concentration of any substance that exceeds safety standards established by the department.

(3) "Naturally sparkling water" means bottled water or vended water with a carbon dioxide content from the same source as the water. "Sparkling," "carbonated," or "carbonation added" means bottled water or vended water that contains carbon dioxide.

(4) Notwithstanding any other provision of this section, water from a public water system that is unprocessed by the bottler or vendor shall be in compliance with Section 165.110(a)(3)(ii) of Title 21 of the Code of Federal Regulations.

SEC. 5. Section 111180 of the Health and Safety Code is amended to read:

111180. Except as provided in Section 111080, any bottled water or vended water, the quality of which is below the quality required by this article, shall be labeled with a statement of substandard quality, as prescribed by subsection (b) of Section 165.110 of Subpart B of Part 165 of Title 21 of the Code of Federal Regulations.

SEC. 6. Section 111192 is added to the Health and Safety Code, to read:

111192. (a) Bottlers and water haulers that distribute directly to consumers shall provide a sentence on each billing statement that includes one of the following:

- (1) A telephone number of the bottler or brand owner.
- (2) The bottler's or brand owner's mailing address.

(b) Bottlers or brand owners may also include other forms of contact, including, but not limited to, the bottler's or brand owner's E-mail address or website.

(c) Bottlers and water haulers that distribute directly to consumers shall, in the billing statement, provide to new customers, and to existing customers once per year thereafter, the following statement: "As a food product, bottled water is subject to rules and regulations promulgated by the federal Food and Drug

Administration (FDA). For further information, please contact (insert the name of the bottler or brand owner) at (insert the bottler's or brand owner's telephone number or mailing address)."

(d) Water vending machines shall display the same information on the machines that is required under subdivisions (a) and (c).

(e) Retail water facilities shall provide new customers the same information that is required under subdivisions (a) and (c). These facilities shall also display this information in a take-home format.

(f) This section shall become operative on January 1, 2002.

SEC. 7. Section 111193 is added to the Health and Safety Code, to read:

111193. (a) The department may by written permission allow a person to package water for use in public emergencies without obtaining a water bottling license, where the emergency has resulted in the interruption of, or has compromised the quality of, the public drinking water supply. This permission may authorize the suspension of any provision of this chapter and related regulations.

(b) (1) The department may at any time change or impose on the permittee any requirements such as testing, equipment, and documentation that the department deems necessary to protect public health but in doing so shall consider the effect of those requirements in light of the urgency of the situation. The department may grant or withdraw this permission at any time.

(2) Packing, distribution, and use of water under this permit shall only be allowed during the emergency period and shall end upon the restoration of adequate public drinking supplies as determined by the department. Distribution shall be limited to the area affected. Water so packaged shall be prominently labeled "drinking water", "for emergency use only", and "not for sale", or similar wording approved by the department.

(c) This section shall not be construed to restrict licensed water bottling plants from providing water processed in accordance with this chapter in emergency situations.